S.B. CIVIL WRIT PETITION NO.2984/2002

VIMAL KUMAR
VS
JUDGE, MACT, CHITTORGARH & ORS.

DATE OF ORDER: - 3.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Manish Pitalia, for the petitioner.
Mr. Jagdish Vyas, for the respondent no.4.

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Heard learned counsel for the petitioner and learned counsel for the respondent no.4 as none appeared for the respondents no.1 to 3 and respondent no.5.

The respondent no.5 was not served in the tribunal and, therefore, his service was closed by the tribunal. Since the respondent no.5 himself was not served in the tribunal and only prayer in the present writ petition is that learned Motor Accident Claims Tribunal,Chittorgarh passed the order to serve the summon of the respondent no.5 by publication of his notice in newspaper on 27th April, 2002 and fixed the date on 6th May, 2002, therefore, according to learned counsel for the petitioner in such short period if the petitioner could not got the summon published in the newspaper, the tribunal should have granted more time and should not have passed the order of closure of service of respondent no.5 only on the ground that the case

was old one.

It appears from the facts mentioned above itself that the Motor Accident Claims Tribunal, Chittorgarh issued summons only on 27th April, 2002 for publication in newspaper and fixed the date as 6th May, 2002 and on failure of the petitioner to publish the summon of the respondent no.5 in newspaper, closed the service on 6th May, 2002. The tribunal, should have given more opportunity to the petitioner.

In view of the above, the writ petition of the petitioner deserves to be allowed, hence, allowed. The order dated 6th May, 2002 is set aside. The record be sent to the Motor Accident Claims Tribunal, Chittorgarh now. The petitioner shall publish the notice of the respondent no.5 for the claim petition within a period of one month from the date of the receipt of the record by the tribunal.

(PRAKASH TATIA), J.

c.p.goyal/-